

CITY AUDITOR'S OFFICE



SPECIAL REPORT

NEIGHBORHOOD SERVICES REVIEW OF SELECTED ISSUES

Report No. CAO 2300-0304-01

November 17, 2003

RADFORD K. SNELDING, CPA, CIA, CFE

CITY AUDITOR

EXECUTIVE SUMMARY

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The purpose of the executive summary is to convey in capsule form the significant issues of the report. The executive summary is a vehicle for reviewing the report and should be used in conjunction with the entire report.

INTRODUCTION

The City of Las Vegas currently employs a Nevada Assemblyman. This employee (the Administrative Officer) worked in the Department of Neighborhood Services during the 2001 and 2003 legislative sessions. During the 1997 and 1999 legislative sessions, the Administrative Officer worked in the City's Office of Federal, State, and Local Initiatives.

In August 2003, the City reviewed cellular phone usage of the Administrative Officer as a result of allegations of misuse.

In September 2003, the City began reviewing the time reporting and payroll records of the Administrative Officer as a result of allegations of misuse of sick leave.

As a result of these reviews, the Administrative Officer signed a "Last Chance Agreement" and was disciplined.

Following the administration of discipline to the Administrative Officer, allegations were made regarding time reporting and management intervention. The Deputy City Manager was directed to investigate these allegations. At the request of the Mayor and Council, the City Auditor's Office was asked to supply technical support to the Deputy City Manager in addressing concerns in the Neighborhood Services Department. In response, the City Auditor's Office began reviewing selected policies, procedures, and practices in the Neighborhood Services Department. As a result of the Deputy City Manager's investigation, the Director of Neighborhood Services was disciplined.

In addition to allegations raised regarding time reporting by the Administrative Officer, similar allegations have arisen regarding a Former Deputy Director of Neighborhood Services (Former Deputy Director) who is also a State Assemblyman who worked in Neighborhood Services from 1993 until he separated from the City in 2002. These allegations were also evaluated in conjunction with the City Auditor's Office review.

OVERVIEW OF SIGNIFICANT ISSUES

As a result of the review of selected policies, procedures, and practices in the Department of Neighborhood Services, the following significant issues were identified that city management should address:

- The Administrative Officer and the Former Deputy Director violated the sick leave policy of the City. City Management should review the violations addressed in this report and take appropriate action.
- Improvements are needed in the policies, procedures, and the process surrounding cell phone usage and employee reimbursement to the City for personal calls.
- The Last Chance Agreement used with the Administrative Officer was inappropriately used and administered. Policies and procedures are needed on how to properly administer a Last Chance Agreement. The City Attorney's Office should review all Last Chance Agreements and Human Resources should participate in the execution of the Agreements.
- Evidence of preferential treatment towards the Administrative Officer by the Director of Neighborhood Services was identified. Neighborhood Services management should take measures to enforce policies consistently among staff. Increased oversight and controls should be implemented for employees at remote locations.
- Written policies and procedures should be developed for employees who are elected officials of other entities.

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OBJECTIVES

The Mayor and City Council requested that the City Auditor's Office review potential abuse of time and attendance, cell phone usage and reimbursement, and other policies and procedures.

SCOPE AND METHODOLOGY

Our review was performed in accordance with Generally Accepted Governmental Auditing Standards. Procedures included:

- Interviewing personnel and outside individuals; and
- Reviewing records, reports, and other applicable documentation.

During our fieldwork, Neighborhood Services and other city staff cooperated in supplying information related to our review. However, the scope of our procedures was limited due to the following:

- Certain documents either did not exist because they have been routinely destroyed as they exceeded the record retention schedule or could not be located.
- One principle individual failed to meet with us for an interview.

BACKGROUND

The City of Las Vegas currently employs a Nevada Assemblyman. This employee (the Administrative Officer) worked in the Department of Neighborhood Services during the 2001 and 2003 legislative sessions. During the 1997 and 1999 legislative sessions, the Administrative Officer worked in the Office of Federal, State, and Local Initiatives.

In August 2003, the City reviewed cellular phone usage of the Administrative Officer as a result of allegations of misuse.

In September 2003, the City began reviewing the time reporting and payroll records of the Administrative Officer as a result of allegations of misuse of sick leave.

As a result of these reviews, the Administrative Officer signed a "Last Chance Agreement" and was disciplined.

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Following the administration of discipline to the Administrative Officer, allegations were made regarding time reporting and management intervention. The Deputy City Manager was directed to investigate these allegations. At the request of the Mayor and Council, the City Auditor's Office was asked to supply technical support to the Deputy City Manager in addressing concerns in the Neighborhood Services Department. In response, the City Auditor's Office began reviewing selected policies, procedures, and practices in the Neighborhood Services Department. As a result of the Deputy City Manager's investigation, the Director of Neighborhood Services was disciplined.

In addition to allegations regarding time reporting by the Administrative Officer, similar allegations have arisen regarding a Former Deputy Director of Neighborhood Services (Former Deputy Director) who is also a State Assemblyman who worked in Neighborhood Services from 1993 until he separated from the City in 2002. These allegations were also evaluated in conjunction with the City Auditor's Office review.

REVIEW OF ISSUES

The following is a discussion of issues raised in the review:

I. TIME AND ATTENDANCE

ISSUE:

Timekeeping policies and procedures are established to provide for management authorization and to ensure that time reported is time worked or approved leave time. Questions have arisen regarding possible erroneous and unauthorized reporting of time and attendance by the Administrative Officer and the Former Deputy Director.

CONDITION:

- The City's sick leave policy for appointive employees states that there are four authorized uses of sick leave:
 - Incapacitated by illness or injury
 - Required to attend a funeral
 - Required to personally care for a member of the immediate family
 - Required to take off work for a medical or dental appointment.

2001 Sick Leave Use – Administrative Officer

- The Administrative Officer violated the City's sick leave policy by inappropriately using sick leave hours for purposes not authorized under the policy as discussed below.

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- The Administrative Officer used 72 hours of sick leave and 8 hours of holiday leave during the period from January 21, 2001 to February 3, 2001.
- This period was the pay period prior to the 2001 Legislative Session.
- In an initial interview with audit staff, the Administrative Officer admitted that he was not sick during the pay period prior to the 2001 Legislative Session. In a subsequent interview, the Administrative Officer recanted his admission to being sick.
- The Department Director was aware of the 72 hours of sick leave taken by the Administrative Officer as evidenced by her signature on the respective timecard.
- During the 2001 legislative session, the Administrative Officer used over 5 weeks (208.25 hours) of sick leave, an average of 18.93 hours per bi-weekly pay period. For the remainder of the year, the Administrative Officer used a total of only 12 hours of sick leave, an average of 0.80 hours of sick leave per bi-weekly pay period.
- None of the Neighborhood Services staff interviewed recall the Administrative Officer having any prolonged illness during the 2001 legislative session.
- Neighborhood Services staff involved with timekeeping responsibilities for the Administrative Division do not recall receiving Leave Request forms from the Administrative Officer for the sick leave used in 2001. This could not be verified as Leave Request forms are not retained by Neighborhood Services for most employees more than one year. Lack of submission of leave request forms is a violation of city and departmental policies.
- The Administrative Officer stated that during the 2001 legislative session he only signed his time cards and sent them to the Department for completion of the detail.
- On review of the Administrative Officer's 2001 timecards, the Administrative Officer did not sign any timecards between February 18, 2001 and June 9, 2001.
- A Neighborhood Services staff acknowledges filling in the detail time on the Administrative Officer's timecards during this time period but denies that she determined herself how the time should be allocated. She recalls being told how to allocate the time either by the Administrative Officer or a member of management.
- The Department Director was aware of the sick leave being taken by the Administrative Officer as she signed 75% of the timecards during this period.

2001 Sick Leave Use – Former Deputy Director

- The Former Deputy Director violated the City's sick leave policy by inappropriately using sick leave hours for purposes not authorized under the policy as discussed below.
- On June 18, 1992, the Former Deputy Director was a Building Plans Checker for the Department of Building and Safety and signed an agreement that defined legislative activities while a City employee. The agreement reads as follows:

While attending the legislative sessions, you will request and be granted, if possible, leave of absence without pay for that period of time spent at the Legislature. You will be allowed to work a sufficient amount of time to offset your cost to the City's health insurance

program. This work must be done in the same pay period as the withholding.

During normal working days, telephone calls or personal visits dealing with legislative matters are prohibited. Such calls or visits may be made during the employee's lunch or designated break. Long distance phone calls charged to the City are prohibited except for City business.

If legislature matters arise during normal work days which require the immediate attention of the employee, the employee may:

- Request vacation time to handle the business. Approval will not unreasonably be withheld, or*
- Obtain leave approval from the Mayor, Council or City Manager in the event that the matter is in the City's interest. This leave may be with or without compensation, at the City's discretion. The Department Head must be properly notified prior to taking the leave.*

- The Former Deputy Director generally followed the terms of this agreement when participating in legislative sessions until 2001. During the pay period prior to the 2001 legislative session, the Former Deputy Director used 80 hours of sick leave and attended approximately 50 hours of legislative meetings. The table below summarizes his time spent at the legislative meetings:

Date	Start Time	End Time	Total Time
21-Jan-01	SUNDAY		
22-Jan-01	MONDAY		
23-Jan-01	8:45 AM	3:55 PM	7:10
24-Jan-01	8:47 AM	4:30 PM	7:43
25-Jan-01	8:52 AM	4:09 PM	7:17
26-Jan-01	8:45 AM	11:12 AM	2:27
27-Jan-01	SATURDAY		
28-Jan-01	SUNDAY		
29-Jan-01	Excused Absence		
30-Jan-01	8:46 AM	4:42 PM	7:56
31-Jan-01	8:41 AM	4:30 PM	7:49
1-Feb-01	8:55 AM	4:29 PM	7:34
2-Feb-01	8:45 AM	10:44 AM	1:59
3-Feb-01	SATURDAY		
			49.92 hours

Source: Legislative minutes & email from Legislative Counsel Bureau.

- The Former Deputy Director failed to meet with us for an interview.

II. CELL PHONE USAGE AND REIMBURSEMENT

ISSUE:

The discipline to the Administrative Officer was in part due to unreimbursed personal cell phone calls made on his city cell phone. The Administrative Officer was directed to identify and reimburse the City for personal calls made over a specified period. Questions were raised as to the adequacy of this agreed-upon reimbursement and the City's policies on personal cell phone calls.

CONDITION:

- According to the City's Communications Equipment Procedure (IT121a), an employee is responsible for reimbursing the City for personal calls and maintaining proof of repayment. The Administrative Officer had not reimbursed the City for any personal cell phone calls prior to his recent discipline.
- The Communications Equipment Procedure also states that "department directors shall be responsible for ensuring compliance with these procedures." Therefore, the Department Director failed in her responsibilities related to this procedure.
- In conjunction with his discipline, the City mistakenly only provided cell phone records to the Administrative Officer for the period January 2003 to August 2003 for identification of personal cell phone calls. The Administrative Officer identified and agreed to reimburse the City \$1,844.38 based on his review of these cell phone records.
- Our review of the cell phone records from February 2000 to August 2003 for numbers identified by the Administrative Officer as being personal found 5,084 corresponding numbers. These calls included 3520 phone numbers with a corresponding charge and 1564 phone numbers without a charge (contractual free minutes). The total charges for the calls were \$2,014, a difference of approximately \$170 from what the Administrative Officer agreed to reimburse the City. If the City assessed a charge of \$.08 per minute (contractual per minute charge) for the remaining 1564 calls without a corresponding charge, the Administrative Officer would owe another \$222. Therefore, the Administrative Officer's repayment plan for personal cell phone calls is deficient by at least \$392.

III. LAST CHANCE AGREEMENT

ISSUE:

A Last Chance Agreement was used in disciplining the Administrative Officer. Questions have been raised as to whether it was an appropriate tool to use for disciplining an appointive employee and whether it was administered appropriately and in accordance with City policy.

CONDITION:

- Our review indicates that the Last Chance Agreement was not an appropriate document to use with the Administrative Officer, an appointive employee, for the following reasons:
 - Last Chance Agreements are typically used for represented employees with substance abuse problems.
 - One of the objectives of a Last Chance Agreement is to have an employee waive his rights to the grievance process, which is typically only available to represented employees.
- The City does not have a policy or procedure addressing the use of Last Chance Agreements.
- In addition to being used inappropriately, the Last Chance Agreement used with the Administrative Officer was deficient in the following areas:
 - The Last Chance Agreement was not reviewed by the City Attorney's Office.
 - A representative from Human Resources was not present during the review/signing of the Last Chance Agreement.
 - The dates of violations, inaccuracies, and misrepresentations by the Administrative Officer were not identified within the Last Chance Agreement.
 - The cell phone bill charges to be reimbursed by the Administrative Officer were incomplete.
 - Payroll records for legislative sessions prior to 2003 were not investigated prior to the execution of the Agreement.
 - No prior disciplinary issues had been documented in the Administrative Officer's personnel file.

IV. PREFERENTIAL TREATMENT

ISSUE:

Did the Department Director of Neighborhood Services and/or the City Manager's Office give preferential treatment to the Administrative Officer?

CONDITION:

➤ Sick Leave Use

- As previously discussed, the Administrative Officer violated the city's sick leave policy during 2001 by using sick leave hours for time not meeting the criteria within city policy. The Administrative Officer admitted that he was not sick for every hour of sick leave used in 2001. In addition, Administrative staff involved in the timekeeping function do not recall the Administrative Officer having any prolonged illnesses.
- Discussions with various Neighborhood Services staff revealed that the Department Director monitors sick leave use closely for most other Neighborhood Services staff.
- The Department Director was aware of the sick leave being taken by the Administrative officer as evidenced by her signature on the timecards.
- The Department Director stated feeling uncomfortable questioning the Administrative Officer on his time worked and leave reporting considering his legislative position.

➤ Leave Requests and Reporting

- In 2003, the Administrative Officer took 162 hours of vacation leave. Leave request forms supported only 8 hours or 5% of vacation time. Therefore, 95% of this leave was unsupported by leave request forms. This percentage of unsupported vacation leave is significantly higher than other employees in the Administrative Division of the Department of Neighborhood Services.
- In 2003, the Administrative Officer took 68.5 hours of sick leave. None of these hours were supported with leave request forms.
- In 2001, the Administrative Officer took 220.25 hours of sick leave. While leave request forms are not typically retained by the department beyond one year, timekeeping staff do not recall him submitting many, if any, leave request forms for this time.
- Daily leave of Neighborhood Services employees is tracked in detail on a manually prepared attendance calendar. This information is tracked according to leave request forms submitted for approval and leave information provided by the division timekeepers. For the period January through September 2003, only 52 hours of 220.5 leave hours taken by the Administrative Officer were recorded on the attendance calendar. The employee who maintains the attendance calendar stated that she rarely would get leave information from

the Administrative Officer and that he would often take leave time without letting anyone know.

- The Department Director would have been aware of both the leave being taken by the Administrative Officer and the absence of leave request forms as she signs both the time cards and leave request forms.

➤ **Supervision**

- The Administrative Officer worked in a remote office known as the Neighborhood Preservation Office (NPO). While the Department Director implemented controls to monitor the activities at the NPO (i.e., customer sign-in sheets and service log reports), these controls were inadequate to sufficiently monitor the Administrative Officer's activities at the NPO. Discussions with Neighborhood Services staff revealed that the Administrative Officer came and went as he pleased at the NPO and did not consistently report his whereabouts.

➤ **Promotion**

- The Administrative Officer's 12-Month Follow-up Career Development Action Plan (CDAP) completed in November 2001 recommended a salary adjustment but a notation was made that the employee had "topped out." The Administrative Officer, the Former Deputy Director, and the Department Director signed the CDAP.
- In November 2001, the Administrative Officer was promoted from a Sr. Management Analyst to an Administrative Officer. The document approving the promotion was signed by the Deputy City Manager and initialed by the Director of Human Resources and only shows the Department Director as a contact. This promotion did not require justification and approval by a Review Committee as the position was being overfilled.
- The Department Director stated that this promotion was completed without her approval by the former City Manager. No documentation supporting her opposition to the promotion was identified.
- The former City Manager adamantly denies intervening in this promotion.

V. POLICIES AND PROCEDURES FOR ELECTED OFFICIALS

ISSUE:

Questions have arisen as to the adequacy of the City's policies and procedures for city employees who are elected officials of other entities.

CONDITION:

- No formal written policies and procedures exist at the City of Las Vegas for employees who are elected officials of another entity.
- A practice was generally followed at the City in the 1990s by employee/legislators whereby they used Leave Without Pay (LWOP) along with eight hours of paid status to retain their benefits during a legislative session.
- During the 2001 and 2003 legislative sessions, these employee/legislators stopped using LWOP and increased their amount of leave taken or hours worked.

CONCLUSIONS

1. TIME AND ATTENDANCE

The Administrative Officer and Former Deputy Director violated city policy by inappropriately using sick leave for purposes that did not meet the criteria for sick leave. The Administrative Officer used an average of 18.93 hours of sick leave per pay period to remain in pay status during the 2001 Legislative Session while only 0.80 hours of sick leave per pay period was used during the remainder of the year. Also in 2001, sick leave was used by the Former Deputy Director to remain in pay status while working at the legislature. The Department Director was fully aware of the sick leave being taken by these employees as she approved the timecards.

2. CELL PHONE USAGE AND REIMBURSEMENT

The Department Director did not review cell phone bills or ensure that employees were reimbursing the City for personal cell phone calls in accordance with the Communications Equipment Procedure.

The Administrative Officer failed to reimburse the City for personal cell phone calls as required by the Communications Equipment Procedure.

The Administrative Officer's repayment plan for personal cell phone calls did not capture all personal cell phone calls and is deficient by at least \$392.

Under current policy and procedures, management has little assurance that city employees are reviewing cell phone records for personal calls and reimbursing the City for these calls.

3. LAST CHANCE AGREEMENT

The Last Chance Agreement was inappropriately used, inadequately reviewed, and deficiently executed. Last Chance Agreements are typically used for "represented employees" with substance abuse problems. The Administrative Officer is an appointive employee and the disciplining issue was for non-reimbursed cell phone usage and time and attendance violations. Also, the Last Chance Agreement was not reviewed by the City Attorney's Office and a representative from Human Resources was not present during its execution. In haste, some cell phone bill charges were not included for reimbursement and legislative periods other than the 2003 Legislative Session were not investigated for inappropriate leave usage.

4. PREFERENTIAL TREATMENT

The Department Director showed preferential treatment to the Administrative Officer as evidenced by her lack of oversight of leave taken, leave request forms submitted, and activities at the Neighborhood Preservation Office.

The Administrative Officer violated the city's sick leave policy during the 2001 Legislative Session. The Department Director more strictly controlled sick leave authorization and use by other Neighborhood Services staff.

95% of the 2003 vacation time for the Administrative Officer was not supported by leave request forms. No leave request forms were located for the 2003 sick leave taken by the Administrative Officer. The employee who maintains the Department's attendance calendar stated that she rarely would get leave information from the Administrative Officer (as evidenced by only 23% of leave hours recorded on the department's manual attendance calendar) and that leave would often be taken without letting anyone know.

The Department Director claims the Administrative Officer was given a promotion despite her opposition. She claims this promotion was accomplished by the former City Manager. The former City Manager adamantly denies intervening in this promotion.

5. POLICIES AND PROCEDURES FOR ELECTED OFFICIALS

No formal written policy exists for city employees who are elected officials of another entity. As a result of the absence of a formal written policy, the practice of charging 72 hours of LWOP and 8 hours of paid status was no longer followed in either the 2001 or 2003 legislative sessions. Had a clear policy been in place, it could have been enforced.

RECOMMENDATIONS

1. TIME AND ATTENDANCE

The City Manager's Office should review the violations addressed in this report and take appropriate action.

2. CELL PHONE USAGE AND REIMBURSEMENT

- a) The City Manager's Office should review and improve the policies, procedures, and the process surrounding cell phone usage and employee reimbursement to the City for personal calls.
- b) The Administrative Officer should be given all available cell phone records and asked to review them for additional personal calls.
- c) The City Manager's Office should obtain reimbursement from the Administrative Officer for the additional \$392 in personal cell phone calls discussed in this report, as well as any more personal calls identified in further review of cell phone records by the Administrative Officer.

3. LAST CHANCE AGREEMENT

- a) The City Manager's Office and Human Resources should ensure that Last Chance Agreements are used for "represented" personnel affected by substance abuse.
- b) The City Attorney's Office should review all Last Chance Agreements before being executed.
- c) Human Resources should implement a policy and procedure to address Last Chance Agreements.
- d) Human Resources should have a representative present at the administration of all Last Chance Agreements.

4. PREFERENTIAL TREATMENT

- a) Neighborhood Services management should enforce existing policies and procedures consistently among staff.
- b) Neighborhood Services management should implement improved controls for tracking work hours and work performed by staff at off-site locations.
- c) Neighborhood Services management should perform routine and unannounced visits of any off-site locations to monitor operations.

5. POLICIES AND PROCEDURES FOR ELECTED OFFICIALS

A written policy and procedure should be developed for employees who are elected officials of other entities. These policies and procedures are for the protection of the city, the city

employees who are elected officials, and the employees charged with their supervision. The policy and procedure should cover at a minimum the following:

- Pay status during service in their elected capacity.
- Guidelines regarding the performance of city duties in conjunction with their other position.
- A written acknowledgment that the employee received and understands the policy and procedure.